

1982 WL 189198 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 9, 1982

*1 Mr. Harry R. Bryan
Director
South Carolina Commission on Aging
915 Main Street
Columbia, South Carolina 29201

Dear Mr. Bryan:

In your letter of February 4, 1982, you requested an opinion from this office as to whether ‘a regional council of government may act as an Area Agency on Aging for a county or counties not in the region as designated in [§ 6-7-110 Code of Laws of South Carolina \(1976\)](#).’ It is the opinion of this office that, pursuant to [§ 6-7-110](#), the regional council may not so act.

[Article VII, § 15 of the Constitution of South Carolina](#) (1895 as amended) enables the General Assembly to authorize the governing body of a county in combination with other counties ‘to create, participate in, and provide financial support’ for regional councils of government. Such councils were envisioned to ‘study and make recommendations on matters affecting the public health, safety, general welfare, education, recreation [etc.] . . .’ Nothing in [Art. VII, § 15](#) itself mandated that such councils could represent only certain counties.

However, [§ 6-7-110](#), enacted as part of [§ 6-7-10 et seq.](#) and pursuant to [Art. VII, § 15](#), explicitly states:
The regional councils of government, including more than one county, shall be grouped in accordance with the following geographic areas . . . [emphasis added].

[Section 6-7-110](#) then proceeds to divide the 46 counties of South Carolina into ten (10) geographic areas, each containing at least three (3) counties. The provision further states that ‘no county shall belong to more than one (1) such regional council of government.’

It is evident that the intent of [§ 6-7-110](#) was to fix a division of the State for the purpose of the operation of a system of regional councils of government pursuant to that authority.¹ We read this provision as mandatory, and, thus, as prohibiting a regional council of government, created pursuant to [§ 6-7-10 et seq.](#), from representing a county or counties which are not included within the particular region provided. This conclusion is supported not only by [§ 6-7-110](#)’s use of the mandatory term ‘shall’, see e.g., [State v. Wilson](#), —, 264 S.E.2d 414, but as well by its prohibition upon any county belonging to more than one council of government. Further, [§ 6-7-180](#), part of the same act, speaks of the ‘governing authorities of the local governmental entities within the designated geographic area of each council of governments . . .’.

I hope this fully answers the question which you raise and if I may be of further assistance, please do not hesitate to contact me. With best wishes, I remain

Very truly yours,

Robert D. Cook
Assistant Attorney General

Footnotes

- 1 Section 6-7-20 explicitly states that '[t]his chapter shall not have any effect upon the powers and duties of any planning organization, either local or regional existing prior to July 3, 1967.' As your question is limited to the scope of § 6-7-110, we do not address the issue of whether any other authority for the operation of a regional planning organization exists.

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